

ORIGINAL

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Communications Assistance for)
Law Enforcement Act)

CC Docket No. 97-213

COMMENTS OF AMERICAN MOBILE SATELLITE CORPORATION

American Mobile Satellite Corporation ("AMSC")¹ hereby submits its Comments in response to the Commission's Public Notice in the above-captioned proceeding.² The Commission is seeking comment regarding what role, if any, the Commission can or should play in assisting telecommunications carriers other than wireline, cellular, and broadband PCS carriers to set standards for, or to achieve compliance with, the requirements of the Communications Assistance for Law Enforcement Act ("CALEA").³ AMSC believes that the Commission should preserve the CALEA-based right of such carriers to assume the primary responsibility, in

¹AMSC is the entity authorized by the Commission in 1989 to construct, launch and operate a U.S. MSS system in the upper L-band (1545-1559/1646.5-1660.5 MHz). The first AMSC satellite, AMSC-1, was launched in 1995, and AMSC began offering service in 1996, representing an investment of over \$600 million. Today, AMSC and those using its space segment offer a full range of land, maritime, and aeronautical mobile satellite services, including voice and data, throughout the contiguous United States, Alaska, Hawaii, the U.S. Virgin Islands, and coastal areas up to 200 miles offshore.

²Further Notice of Proposed Rule Making, *Communications Assistance for Law Enforcement Act*, CC 97-213 (November 5, 1998) ("FNPRM").

³Communications Assistance for Law Enforcement Act, Pub. L. No. 103-414, 108 Stat. 4279 (1994) (codified as amended in various sections of titles 18 and 47 of the United States Code, including 47 U.S.C. §§ 229 and 1001-10).

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consultation with law enforcement, of establishing the standards that will apply to their services.

In CALEA, Congress set forth the roles of telecommunications carriers, law enforcement, and the Commission in establishing the relevant technical standards and general assistance capability requirements. Congress determined that “the telecommunications industry itself shall decide how to implement law enforcement’s requirements.”⁴ Specifically, CALEA requires the telecommunications industry, in consultation with law enforcement agencies,⁵ to adopt technical standards to provide the details necessary to translate CALEA’s broad functional requirements into network and equipment specifications.⁶

Recognizing that the standard-setting process might be time-consuming or ultimately unsuccessful, Congress provided a mechanism whereby the Commission, upon the request of any person or government agency, is authorized to establish CALEA requirements and “provide a reasonable time” for the industry to comply with these requirements.⁷ Specifically, Congress

⁴H.R. Rep. No. 103-827, *reprinted in* 1994 U.S.C.C.A.N. 3489, 3499 (1994) note 4 at 19 (1994) (“House Report”); *id.* at 3506 (“Section [107] established a mechanism for implementation of the capability requirements that defers, in the first instance, to industry standards organizations.”).

⁵In this regard, it should be noted that AMSC intends to cooperate with law enforcement in conducting authorized electronic surveillance when practical. At the same time, AMSC wants to ensure that it can implement CALEA in a way that protects fully the privacy rights of its customers and that is most cost effective. Accordingly, AMSC will work closely with law enforcement, as contemplated by CALEA, to develop standards that would apply to their services.

⁶ While the industry must consult with law enforcement agencies in formulating these technical requirements, Congress expressly prohibited law enforcement agencies from requiring carriers to adopt “any specific design of equipment, facilities, services, features, or system configuration.” CALEA § 103(b)(1), *codified at* 47 U.S.C. § 1002(b)(1).

⁷CALEA §§ 107(b) and (b)(5), *codified at* 47 U.S.C. §§ 1006(b) and (b)(5).

authorized such Commission action if industry associations “fail to issue technical requirements or standards or if a Government agency or any other person believes that such requirements or standards are deficient.”⁸

In its FNPRM, the Commission noted that it has received no petitions requesting a standard for paging, specialized mobile radio, and satellite systems, nor any petition asserting that any given standard for these systems is deficient.⁹ In the absence of such petitions, the Commission should allow the operators of these systems, in consultation with law enforcement, to establish the CALEA capability requirements that will apply to their services, as contemplated in CALEA. The Commission should not attempt to determine standards for CALEA compliance for these services through regulatory mandates.

If the Commission is asked to consider the adequacy of technical rules or standards that are adopted for carriers not covered by J-STD-025, it would be appropriate for the Commission to carry out this request. If the Commission ascertains that the standard adopted for the particular service or industry is inadequate, the Commission should identify features that would remedy these deficiencies and direct the relevant standard-setting organizations, manufacturers, or individual telecommunications carriers to incorporate these features into detailed technical standards. Because industry is in the best position to determine how to most effectively and

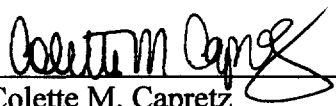
⁸CALEA § 107(b), *codified at* 47 U.S.C. § 1006(b) (emphasis added). Indeed, the Commission is currently considering the standard adopted by the industry for wireline, cellular, and broadband PCS carriers, in response to petitions for rulemaking from industry representatives and others. The technical requirements considered in the Commission’s FNPRM are limited to those necessary for wireline, cellular, and broadband PCS carriers to meet the CALEA requirements, as law enforcement and industry efforts have been focused compliance by these carriers. FNPRM at para. 4.

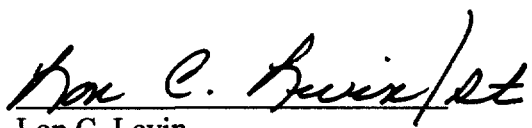
⁹FNPRM at para. 135.

efficiently implement any technical requirements, such procedures will ensure that any standards adopted are consistent with existing industry protocols and that the resulting equipment resulting will function within the carriers' existing telecommunications networks.

Respectfully submitted,

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